



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/170110

PRELIMINARY RECITALS

Pursuant to a petition filed November 10, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability ["DCHAA"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 26, 2016. At petitioner's request a Hearing scheduled for December 29, 2015 was rescheduled.

The issue for determination is whether petitioner is eligible for payment by the MA program for excision of excess skin on the abdomen (panniculectomy).

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

BY: [REDACTED] MD, Chief Medical Officer
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (35 years old) is a resident of Marathon County, Wisconsin.

2. Petitioner had gastric bypass surgery in 2012 followed by a 100 pound weight loss; as of September 3, 2015 she weighs 167.5 pounds and has a Body Mass Index [BMI] of 27.5. Exhibits #1 & #2.
3. Petitioner is experiencing breakdown of the skin in the folds of the suprapubic area, repeated infections (which she treats with topical medications), sweating and discomfort, and needs to stop during the day to change her clothes and clean herself; she has difficulty with ambulation and gait. Exhibits #1 & #2.
4. Petitioner's provider ([REDACTED] of [REDACTED], Wisconsin) requested Prior Authorization ["PA"] for MA coverage of excision of excess skin on the abdomen (panniculectomy) for petitioner by a *Prior Authorization Request Form (PA/RF)* dated September 19, 2015 (PA # [REDACTED]) at a total cost of \$6,607.00.
5. DCHAA denied PA request # [REDACTED] and sent a letter to petitioner dated October 1, 2015 and entitled *BadgerCare Plus Notice of Appeal Rights* informing her of the denial.

DISCUSSION

MA may only reimburse providers for medically necessary and appropriate health care services and equipment listed in sections 49.46(2) and 49.47(6)(a) of the Wisconsin Statutes, as implemented by chapter DHS 107 of the Wisconsin Administrative Code. Some services and equipment are covered if a PA request is submitted and approved in advance of receiving the service. Some services and equipment are never covered by the MA program.

In determining whether to approve or disapprove a request for PA the limitations imposed by pertinent federal or state statutes, rules, regulations, or interpretations must be considered. Wis. Admin. Code § DHS 107.02(3)(e)9. (August 2015). Written state policy limitations provide as follows:

“Panniculectomy surgery is considered medically necessary if the panniculus hangs below the level of the pubis **and** either one of the following criteria is met:

- The medical record documents that the panniculus causes chronic intertrigo that is refractory to at least three months of appropriate medical therapy or consistently recurs over three months while receiving appropriate medical therapy.
- There is a presence of a significant functional deficit that prohibits or profoundly impairs the ability to perform activities of daily living due to a significant physical deformity or disfigurement resulting from the excess skin folds, and surgery is expected to restore or greatly improve the functional deficit. Examples of this would be deficits that prohibit a member from being able to properly shower or toilet.”

ForwardHealth Update January 2014 No. 2014-01 (page 1) [**bold** in original].

In this case there is no documentation of at least three months of appropriate medical therapy. Additionally, there is no documentation that petitioner has a significant functional deficit that prohibits or profoundly impairs her ability to perform activities of daily living due to a significant physical deformity or disfigurement resulting from the excess skin folds (and that surgery is expected to restore or greatly improve the functional deficit). Therefore, DCHAA correctly denied the PA.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for payment by the MA program for excision of excess skin on the abdomen (panniculectomy).

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of February, 2016

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 9, 2016.

Division of Health Care Access and Accountability